

KING & SPALDING

2500 TRUST COMPANY TOWER

ATLANTA, GEORGIA 30303

404/572-4600

TELEX: 54-2917 KINGSPALD ATL

TELECOPIER: 404 689-4838

524-7429

CABLE: TERMINUS

January 22, 1988

1730 PENNSYLVANIA AVENUE, N. W.

SUITE 1200

WASHINGTON, D. C. 20006

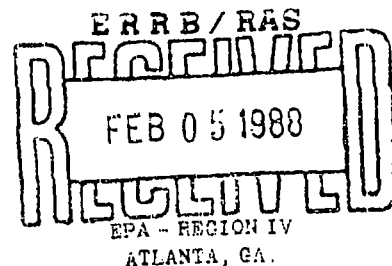
202/737-0500

TELECOPIER: 202 737-5714

BY HAND DELIVERY

Mr. R. Wayne Lee
Assistant Regional Counsel
United States Environmental Protection
Agency, Region IV
345 Courtland Street, N.E.
Atlanta, Georgia 30365

Re: Medley Farm Site



Dear Mr. Lee:

I am writing on behalf of the Medley Farm Site Steering Committee. The steering committee agrees to execute the administrative order containing the language negotiated on January 21, 1988. On behalf of my client, the National Starch and Chemical Corporation, I have enclosed a telecopied signature page. Mr. William Gunn will execute the order on behalf of his client, Milliken. I also have a verbal commitment from Mr. Ralph Mellom that his clients will sign the order and submit signature pages to you. Likewise, I understand that Mr. John Britton will forward a signature for his client. Based upon my discussions with Ann Heard and you, this is sufficient.

For the record, the Medley Farm Site Steering Committee vehemently objects to the language contained in the dispute resolution section of the order. This section is penal in nature because it allows EPA to assume the completion of the RI/FS, if the steering committee elects to invoke dispute resolution. Given this possibility, the steering committee will never invoke dispute resolution because the risk of losing the opportunity to conduct the RI/FS is too great. Therefore, the order effectively contains no dispute resolution mechanism.

As we have discussed on numerous occasions, the dispute resolution provision of the order is dispute resolution in name only because EPA is the final arbiter of any dispute. Moreover, this order provides that stipulated penalties continue to accrue while any dispute is resolved, if the agency ultimately sustains its position. Despite the coercive nature of that provision, the fact that EPA can assume the work simply because the steering committee elects to invoke the resolution mechanism violates every concept of fundamental fairness. Our clients are agreeing to this

10294616



Mr. R. Wayne Lee
January 22, 1988
Page 2

administrative order under protest, and we will do everything in our power to bring this issue before those persons within EPA who have authority over the Superfund program. The Superfund program is predicated upon voluntary compliance by potentially responsible parties. If EPA continues to include such patently unfair provisions in future orders, voluntary participation in the RI/FS process will cease. The fact that the Medley Farm Site is not on the National Priorities List makes the agency's position even more reprehensible.

The Medley Farm Site Steering Committee has begun the process of selecting a contractor. As soon as that selection process is complete, we will notify you pursuant to the terms of the order. Please let us know when the order is signed by Mr. DeHihns so that we can obtain a copy of the order at the earliest possible date. If you have questions, please feel free to contact me.

Sincerely,



Les Oakes
For The Medley Farm Site
Steering Committee

LO/lp
Enclosure

cc: Mr. Lee A. DeHihns, III ✓
Mr. Jay Sargent
Ms. V. Ann Heard
The Medley Farm Site Steering Committee